THE BOMBAY BUILDING (CONTROL ON ERECTION) ACT, 1948.

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SCHEDULE.

BOMBAY ACT No. XXXI OF 1948.[1]

[THE BOMBAY BUILDING (CONTROL ON ERECTION) ACT, 1948.]

[*10th April 1948.*]

Amended by Bom. 69 of 1948.

An Act to provide for the control on erection and re-erection of buildings in the Province of Bombay.

WHEREAS with a view to providing better housing accommodation and securing economic and orderly building development, it is necessary to provide for the control on the erection and re-erection of buildings in the Province of Bombay and for certain other purposes; It is hereby enacted as follows :—

Short title and extent.

1. (*1*) This Act may be called the Bombay Building (Control on Erection) Act, 1948.

(*2*) It extendto the areas specified in the Schedule.

(*3*) The Provincial Government may, by notification in the *Official Gazette*, direct that it shall also extend to any other area specified in such notification. The Provincial Government may further direct in such notification that it shall apply only in respect of buildings intended to be used for such purposes as may be specified in the notification.

Definitions.

2. In this Act, unless there is anything repugnant to the subject or context,—

(*i*) "building" means a house, out-house, stable, shed, hut and every other structure, involving use of bricks, cement, asbestos cement sheets, iron, steel or any other material which the Provincial Government may by notification in the *Official Gazette* specify.

Explanation.—Use of iron or steel by way of nails or screws or doors, window and fastenings shall not be deemed to be use of iron or steel within the meaning of this definition.

(*ii*) "Controller" means the person appointed as such under section 3 ;

(*iii*) "erection or re-erection of a building" includes any alteration to, or enlargement of, or addition to, any building; and the expression "erect or re-erect a building" shall be construed accordingly ;

(*iv*) "prescribed" means prescribed by rules made under this Act ;

(*v*) "tenement" means a separate and self-contained set of rooms constructed for use for the purposes of a dwelling and forming part a building from some other part of which it is divided horizontally.

Appointment of Controllers of Buildings.

3. The Provincial Government may, by notification in the *Official Gazette*, appoint for any area one or more persons to be the Controllers of Bildings for the purposes of this Act.

Application for permission to erect or re-erect building or to continue to erect or re-erect building.

4. (*1*) Every person desiring to commence the work of erection or re-erection of a building or to continue the work of erection or re-erection of a building commenced before the date on which this Act has come into force shall make an application in writing to the Controller for permission to do so. The application shall be in such form and contain such information in respect of the building to which the application relates as may be prescribed.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Pt. V, page 157.

(*2*) On receipt of such application the Controller, after making such enquiry as he considers necessary, shall, by order in writing either—

(*a*) grant the permission subject to such conditions, if any, as may be specified in the order ; or

(*b*) refuse to grant such permission :

Provided that the Controller shall not refuse to grant such premission if he is satisfied that the erection or re-erection is of a building intended for a residential purpose and consisting of one or more tenements each with a floor area not exceeding 800 square feet.

Explanation.—For the purposes of this sub-section "floor area" does not include the area of a bath-room, lavatory, open verandah, passage or balcony or the area covered by walls.

(*3*) If at the expiration of a period of one month after an application under sub-section (*1*) has been received by the Controller no order in writting has been passed by the Controller permission shall be deemed to have been granted without the imposition of any condition.

Revocation or modification of permission by Provincial Government.

5. The Provincial Government may, at any time, make an order in writing for reasons which it considers sufficient and which shall be stated in such order, revoking the permission granted by the Controller under sub-section (*2*) of section 4 or modifying the conditions subject to which such permission was granted by him.

Right of appeal.

6. (*1*) Any person aggrieved by an order of the Controller under sub-section (*2*) of section 4 may, within thirty days from the date of the communication of such order to him, prefer an appeal to the Provincial Government.

(*2*) The order of the Provincial Government on appeal shall be final.

Bar of compensation.

7. No compensation shall be claimed by any person for any damage or loss sustained by him in consequence of—

(*a*) any order of the Controller under sub-section (*2*) of section 4 ; or

(*b*) any order passed by the Provincial Government under section 5 or 6 ; or

(*c*) anything which is in good faith done or intended to be done under this Act.

Saving of other enactments.

8. Nothing in this act shall affect the power of any authority to impose restrictions upon the erection or re erection of a building under any other enactment for the time being in force.

Penalties.

9. (*1*) No work of erection or re-erection of a building shall be commenced, continued or carried out without the permission of the Controller granted under section 4 or after such permission is revoked under section 5 or in contravention of any conditions imposed by an order under section 4, 5 or 6.

(*2*) Where any work of erection or re-erection of a building is commenced, continued or carried out in contravention of sub-section (*1*), the person at whose expense the work of erection or re-erection of the building is commenced, continued or carried out and (where he is not the same person) the person undertaking the commencement, continuance or carrying out of such work and (in either case) any architect, engineer or other person employed in an advisory or supervisory capacity in the commencement, continuance or carrying out of such work shall, on conviction, be punishable with imprisonment which may extend to three months or with fine which may extend to Rs. 1,000 or with both.

(*3*) Any court trying an offence under sub-section (*2*) may order the forfeiture to His Majesty of all materials which the court is satisfied were collected, purchased or otherwise obtained for the work of erection or re-erection.

Offence by companies etc.

10. Where a person committing an offence under this Act is a company, or other body corporate, or an association of persons (whether incorporated or not), every person who at the time of the commission of the offence was a director, manager, secretary, agent, or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be liable to the punishment provided for the offence.

Power of entry, etc.

11. (*1*) Any person not below the rank of a Gazetted Officer authorised in this behalf by the Provincial Government by general or special order may—

(*a*) enter and inspect any land on which he has reason to believe that the work of erection or re-erection of a building is being commenced, continued or carried out in contravention of the provisions of this Act;

(*b*) ask of any person such questions as he deems necessary for carrying out the purposes of this Act;

(*c*) ask any person at whose expense the work of erection or re-erection is commenced, continued or carried out or any person engaged in the carrying out of such work to produce or furnish such books or documents or other information being documents or information in his possession, relating to such work;

(*d*) seize any materials which he has reason to believe have been collected, purchased or otherwise obtained for the work of erection or re-erection of a building in contravention of the provisions of this Act and subject to the provisions of sub-section (*3*) of section 9 dispose of them in the prescribed manner.

(*2*) Whoever voluntarily obstructs any person authorised under sub-section (*1*) in the exercise of any powers conferred by that sub-section or refuses to answer of wilfully gives a false answer to any question asked of him or refuses to produce or furnish any books, documents or other information as required under the said sub-section shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

Protection of persons acting under this Act.

12. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Savings.

13. Nothing in this Act shall apply to—

(*a*) alterations in a building not involving increase in the existing plinth area or roof area or in the total height of the building;

(*b*) re-erection of a dilapidated part of a building not involving re-erection of the whole building or, in the case of a storeyed building, of the whole storey;

(*c*) machinery foundations, furnaces, fire-places, flues, chimneys, washing-places drainage lines, latrines, urinals, septic tanks or manholes and inspection chambers for drains;

(*d*) storage tanks or wells;

(*e*) boundary walls, compound walls and fencings;

(*f*) the erection or re-erection of a building—

(*i*) which is undertaken or carried out on behalf of the Government or a local authority or in pursuance of a contract with the Government or a local authority, or

(*ii*) the cost of which, or any part of the cost of which, the Government or a local authority has agreed to pay.

Power to make rules.

14. (*1*) The Provincial Government may, by notification in the *Official Gazette*, make rules to carry into effect the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*i*) the form of application and the information to be supplied under sub-section (*1*) of section 4;

(*ii*) the manner in which persons authorized under sub-section (*1*) of section 11 shall exercise their powers and dispose of the materials seized under clause (*d*) of the said sub-section.

Delegation of Controller's powers to Housing Board constituted under Bom. LXIX of 1948.

[1][**14A.** Notwithstanding anything contained in this Act, the Provincial Government may direct that the powers conferred and duties imposed upon the Controller under this Act, shall in the area in which the Bombay Housing Board Act, 1948, has come into force, be exercised and performed by the Housing Board constituted under the said Act.]

Repeal.

15. (*1*) The Bombay Building (Control on Erection) Ordinance, 1948, is hereby repealed; and it is hereby declared that the provisions of sections 7 and 25 of the Bombay General Clauses Act, 1904, shall apply to the repeal as if that Ordinance were an enactment. Bom. Ordinance No. 1 of 1948.

(*2*) Notwithstanding the repeal of the said Ordinance, any application made under sub-section (*1*) of section 4 of that Ordinance prior to the commencement of this Act shall be deemed to have been made under the corresponding provision of this Act: Bom. I of 1904.

Provided that the period of one month mentioned in sub-section (*3*) of section 4 of this Act shall be deemed to commence and run from the date on which such application was received by the Controller.

SCHEDULE.

1. The City of Bombay.
2. The Bombay Suburban District.
3. The Thana Taluka of the Thana District.
4. The Kalyan Municipal Borough.
5. The Ahmedabad Municipal Borough.
6. The Ahmedabad Cantonment.

[1] This section was inserted by Bom. 69 of 1948, s. 75 and Schedule.